

DATE: 5/22/08 CASE NUMBER: 08-15780M-SD

USA vs. Yose Olivares-Cerecedo

U.S. MAGISTRATE JUDGE: JAY R. IRWIN #: 70BK

A.U.S. Attorney \_\_\_\_\_ INTERPRETER Ricardo Gonzalez  
LANGUAGE Spanish

Attorney for Defendant Juan Rocha for Matthew Johnson (AFPD)

MATERIAL WITNESS(es): \_\_\_\_\_

MATERIAL WITNESS(es) state true name(s) to be: \_\_\_\_\_

Attorney for Material Witness(es): \_\_\_\_\_

DEFENDANT: ☒ PRESENT ☐ NOT PRESENT ☒ CUSTODY

DOA \_\_\_\_\_ ☐ Initial Appearance ☐ Appointment of counsel hearing held  
☐ Financial Afdvt taken ☐ Defendant Sworn ☐ Financial Afdvt sealed  
☐ Rule 5(c)(3) ☐ Defendant states true name to be \_\_\_\_ Further proceedings ORDERED  
in Defendant's true name.

<b>DETENTION HEARING:</b> <input type="checkbox"/> Held <input type="checkbox"/> Con't <input type="checkbox"/> Submitted <input type="checkbox"/> Reset Set for: Before: <input type="checkbox"/> Defendant ordered temporarily detained in the custody of the United States Marshal <input type="checkbox"/> Defendant ordered released _____ <input type="checkbox"/> Defendant continued detained pending trial <input type="checkbox"/> Flight risk <input type="checkbox"/> Danger	<b>IDENTITY HEARING:</b> <input type="checkbox"/> Held <input type="checkbox"/> Con't <input type="checkbox"/> Submitted <input type="checkbox"/> Reset <input type="checkbox"/> Waived Set for: Before: <input type="checkbox"/> Warrant of removal issued.
<b>PRELIMINARY HEARING:</b> <input type="checkbox"/> Held <input type="checkbox"/> Con't <input type="checkbox"/> Submitted <input type="checkbox"/> Reset <input type="checkbox"/> Waived Set for: Before: <input type="checkbox"/> Probable cause found <input type="checkbox"/> Dismissed <input type="checkbox"/> Held to answer before District Court	<b>STATUS HEARING:</b> re: _____ <input type="checkbox"/> Held <input type="checkbox"/> Con't <input type="checkbox"/> Reset Set for: Before:

Other: Government moves for dismissal of the complaint. Defense does not object. Court grants motion and dismisses case without prejudice. Case is closed.

Recorded by Courtsmart  
BY: Angela J. Tuohy  
Deputy Clerk

cc: USM/BP/AFPD/PTS 

DATE: 5/21/2008 CASE NUMBER: 08-15780M-SD

USA vs. Yose Olivares-Cerecedo

U.S. MAGISTRATE JUDGE: JAY R. IRWIN #: 70BK

A.U.S. Attorney \_\_\_\_\_ INTERPRETER Ricardo Gonzalez  
LANGUAGE Spanish

Attorney for Defendant Matthew Johnson (AFPD)  
MATERIAL WITNESS(es): \_\_\_\_\_  
MATERIAL WITNESS(es) state true name(s) to be: \_\_\_\_\_  
Attorney for Material Witness(es): \_\_\_\_\_

DEFENDANT: ☒ PRESENT ☐ NOT PRESENT ☒ CUSTODY

DOA 5/20/08 ☒ Initial Appearance ☒ Appointment of counsel hearing held  
☐ Financial Afdvt taken ☒ Defendant Sworn ☐ Financial Afdvt sealed  
☐ Rule 5(c)(3) ☐ Defendant states true name to be \_\_\_\_\_. Further proceedings ORDERED  
in Defendant's true name.

<b>DETENTION HEARING:</b> <input type="checkbox"/> Held <input type="checkbox"/> Con't <input type="checkbox"/> Submitted <input type="checkbox"/> Reset Set for: Before: <input checked="" type="checkbox"/> Defendant ordered temporarily detained in the custody of the United States Marshal <input type="checkbox"/> Defendant ordered released _____ <input type="checkbox"/> Defendant continued detained pending trial <input type="checkbox"/> Flight risk <input type="checkbox"/> Danger	<b>IDENTITY HEARING:</b> <input type="checkbox"/> Held <input type="checkbox"/> Con't <input type="checkbox"/> Submitted <input type="checkbox"/> Reset <input type="checkbox"/> Waived Set for: Before: <input type="checkbox"/> Warrant of removal issued.
<b>PRELIMINARY HEARING:</b> <input type="checkbox"/> Held <input type="checkbox"/> Con't <input type="checkbox"/> Submitted <input type="checkbox"/> Reset <input type="checkbox"/> Waived Set for: Before: <input type="checkbox"/> Probable cause found <input type="checkbox"/> Dismissed <input type="checkbox"/> Held to answer before District Court	<b>STATUS HEARING:</b> re: <u>Mental Competency</u> <input type="checkbox"/> Held <input type="checkbox"/> Con't <input type="checkbox"/> Reset Set for: <u>5/22/08 at 1:00 pm</u> Before: <u>Magistrate Judge Irwin</u>

Other: Counsel move for a continuance allowing the Government to look into the mental competency matter.  
Court grants motion and sets status hearing.

Recorded by Courtsmart  
BY: Angela J. Tuohy  
Deputy Clerk

# United States District Court

## SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

V.

Yose OLIVARES-Cerecedo

Citizen of Mexico

YOB: 1967

076738998

Illegal Alien

### CRIMINAL COMPLAINT

CASE NUMBER: 08 - 157804-SD

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief.

#### COUNT I

That on or about May 8, 2007, Defendant Yose OLIVARES-Cerecedo was arrested and removed from the United States to Mexico through the port of El Paso, Texas, in pursuance of law, and thereafter on or about May 20, 2008, Defendant was found in the United States near Andrade, California within the Southern District of California, the Secretary of the Department of Homeland Security not theretofore having consented to any reapplication by the Defendant for admission into the United States and after the Defendant had willfully and unlawfully returned and remained in the United States; in violation of Title 8, United States Code, Section 1326 (Felony).

#### COUNT II

That on or about May 20, 2008, within the Southern District of California, Defendant Yose OLIVARES-Cerecedo, an alien, did knowingly and willfully enter the United States at a time or place other than as designated by Immigration Officers; in violation of Title 8, United States Code, Section 1325 (Misdemeanor).

Continued on the attached sheet and made a part hereof. ☒ Yes ☐ No

Signature of Complainant

Gabe Diaz

Senior Patrol Agent

Sworn to before me and subscribed in my presence,

May 21, 2008

Date

at

Yuma, Arizona

City and State

Jay R. Irwin, U.S. Magistrate

Name &amp; Title of Judicial Officer

Signature of Judicial Officer

## STATEMENT OF FACTUAL BASIS

Defendant: Yose OLIVARES-Cerecedo

Dependents: None

**IMMIGRATION HISTORY:** The Defendant was last removed through El Paso, Texas on May 8, 2007.

**CRIMINAL HISTORY:**

<u>DATE/LOCATION</u>	<u>OFFENSE</u>	<u>DISPOSITION</u>
11/02/1995 Brevard, NY County Sheriff's Office	Resisting Arrest W/ Violence	15 Days Jail
08/28/2001 Wenatchee, WA Sheriff's Office	Criminal Trespass	Guilty: 90 Days Jail (85 Days Suspended)
04/03/2007 Baker County Sheriff's Office	Theft 2 <sup>nd</sup> Degree	Guilty: Fine, 194 Days Jail (180 SUSP) and 1 Year Probation

**Narrative:** The Defendant, a citizen of Mexico and illegally within the United States, was encountered by Yuma Border Patrol agents near Andrade, California.

The Defendant was questioned as to his citizenship and immigration status. From that questioning agents determined that the Defendant is an undocumented national of Mexico and illegally in the United States.

The Defendant was transported to the Yuma station for processing. During processing, questioning and computer record checks the above criminal and immigration information was obtained as it relates to this Defendant.

The Defendant last entered the United States illegally without inspection near Andrade, California on May 20, 2008.

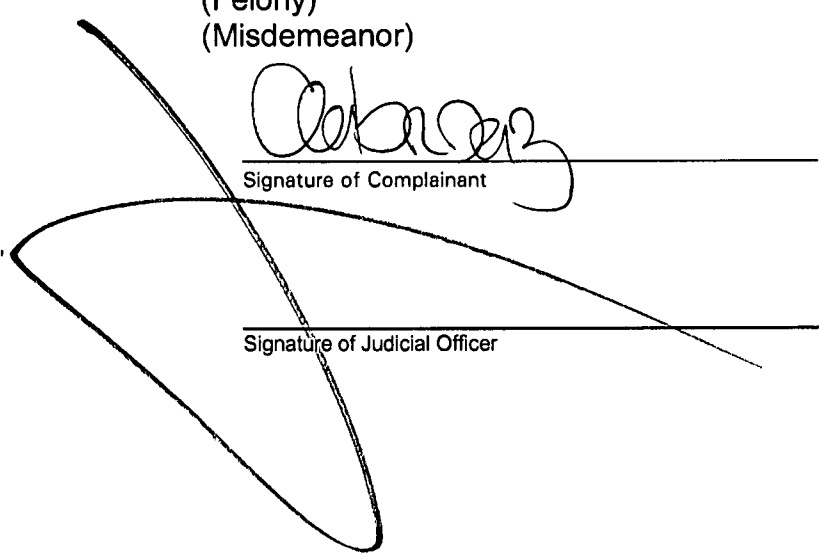
**Charges:** 8 USC§1326  
8 USC§1325

(Felony)  
(Misdemeanor)

  
\_\_\_\_\_  
Signature of Complainant

Sworn to before me and subscribed in my presence,

\_\_\_\_\_  
May 21, 2008  
Date

  
\_\_\_\_\_  
Signature of Judicial Officer